

**REMARKS**

This responds to the Office Action dated January 22, 2008 and the final Office Action dated January 25, 2008.

No claims are amended, claim 16 is canceled, and no claims are added; as a result, claims 1, 3-15, and 17-44 are now pending in this application, of which claims 34-40 are withdrawn.

In a voice mail message left at the Examiner's telephone number, Applicant requested clarification as to the status of the pending application in light of the short time interval between the January 22, 2008 and the January 25, 2008 Office Actions. A reply voice mail received from Examiner Dawson on February 15, 2008 stated that the January 25, 2008 final Office Action alone is in need of a reply. Accordingly, this Amendment and Response is directed to the content of the January 25, 2008 final Office Action.

If Applicant's understanding is incorrect in any way, Applicant respectfully requests clarification and a full opportunity with which to respond.

**§103 Rejection of the Claims**

Claim 16 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Furihata (U.S. Patent No. 4,300,564) in view of Fogarty (U.S. Patent No. 3,503,397).

Claim 16 is cancelled without prejudice or disclaimer and solely for purposes of expediting allowance. Applicant reserves the right to reintroduce claim 16 in an application filed at a later date.

**Allowable Subject Matter**

Claims 1, 3-15, 17-33 and 41-44 were allowed.

**Reservation of Rights**

In the interest of clarity and brevity, Applicant may not have equally addressed every assertion made in the Office Action, however, this does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of

the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

**AMENDMENT AND RESPONSE UNDER 37 CFR § 1.116 – EXPEDITED PROCEDURE**

Serial Number: 10/735,268

Filing Date: December 12, 2003

Title: SCLERAL DEPRESSOR

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**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612) 373-6911 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date

February 21, 2008 By D.W. Black  
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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 21<sup>st</sup> day of February 2008.

Name

Dawn M. Poule

Signature

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